IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 15TH NOVEMBER 2006 / 24TH KARTHIKA 1928

WP(C).No. 23285 of 2006(V)

PETITIONER:

K. SONISH,
SANTHOSH BHAVAN, KOZHUVALLOOR P.O.,
CHENGANNUR, ALAPPUZHA.

BY ADV. SRI.R.REJI
SMT.SHIVA RAJA RESHMI

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, HOME DEPARTMENT,
THIRUVANANTHAPURAM.

2. STATE OF KERALA,
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO
GOVERNMENT, HOME DEPARTMENT, THIRUVANANTHAPURAM.

3. THE DIRECTOR GENERAL OF PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

4. THE DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM.

5. THE NODAL OFFICER,
PUBLIC INFORMATION, HOME DEPARTMENT,
GOVT. SECRETARY, THIRUVANANTHAPURAM.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO. 23285 of 2006

Dated this the 15th day of November, 2006

JUDGMENT

The petitioner was a candidate for appointment to the post of Assistant Public Prosecutor. When the rank list has been published, the petitioner finds that her rank is 116 and that she is not likely to be appointed, considering the number of vacancies presently available. The petitioner contends that she has entertained a doubt regarding the awarding of marks for the written test and the interview and has sought for certain information from the respondents. Since the information requested for was not supplied, the petitioner invoked the provisions of the Right to Information Act. Even thereafter, the attitude of the respondents was not favourable. It was under the above circumstances, this writ petition has been filed.

2. After hearing the submissions made by the counsel for the petitioner, I felt that instead of going into the questions relating to the duty cast on the respondents under the Right to Information Act, this Court can direct the respondents to make available relevant information so that the grievance of the petitioner can be straight away considered.

3. Learned Government Pleader, on instructions, submits that

the maximum marks stipulated for the written test was 600 and that for interview was 160. The petitioner scored 306 marks for the written test and 45 marks for the interview. The total comes to 351. Rank No.150 is also having the same marks. The last person who got appointment is rank No.67 whose total marks is 367. That being the position, the petitioner cannot have a grievance that persons who got lower marks than the petitioner have found a place in the rank list above her.

4. Learned counsel for the petitioner submits that the total marks prescribed for interview is on the higher side when compared to the maximum marks for written test and interview taken together i.e.760. According to the learned counsel for the petitioner, the percentage of maximum marks for the interview shall not exceed 12.5% of the total marks.

5. I find no merit in the above contention. The case before the Supreme Court was one from Haryana High Court and the post in question was entirely different from the one considered in this case. Having regard to the facts and circumstances of that case, the apex Court found that the Union Public Service Commission ought not to have fixed the maximum marks above 12.5% for interview. However, as far as a post like that of Assistant Public Prosecutor is concerned,

equal importance will have to be given for the performance of the candidates in the written test and the interview. The nature of duty and responsibility attached to the post of Assistant Public Prosecutors is such that it demands not only sound knowledge in law but also efficiency in prosecuting the case. Hence the percentage of marks for interview mentioned in Yadav's case cannot automatically be applied to the facts of this case. That apart, the maximum marks of 150 earmarked for the interview has become an irrelevant factor since none of the candidates was, in fact, awarded marks higher than the percentage fixed in Yadav's case. Hence viewed from any angle, this writ petition is devoid of merit. W.P.(C) is accordingly dismissed.

K.K.DENESAN, JUDGE

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